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No. 91-879

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**In the Supreme Court**  
OF THE  
**United States**

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OCTOBER TERM, 1991

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KOREAN UNITED PRESBYTERIAN  
CHURCH OF LOS ANGELES,  
*Petitioners,*

vs.

PRESBYTERY OF THE PACIFIC; SYNOD OF  
SOUTHERN CALIFORNIA AND HAWAII;  
AND PRESBYTERIAN CHURCH (U.S.A.),  
*Respondents.*

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**On Petition for Writ of Certiorari  
to the Court of Appeal of the State of California,  
Second Appellate District, Division Seven**

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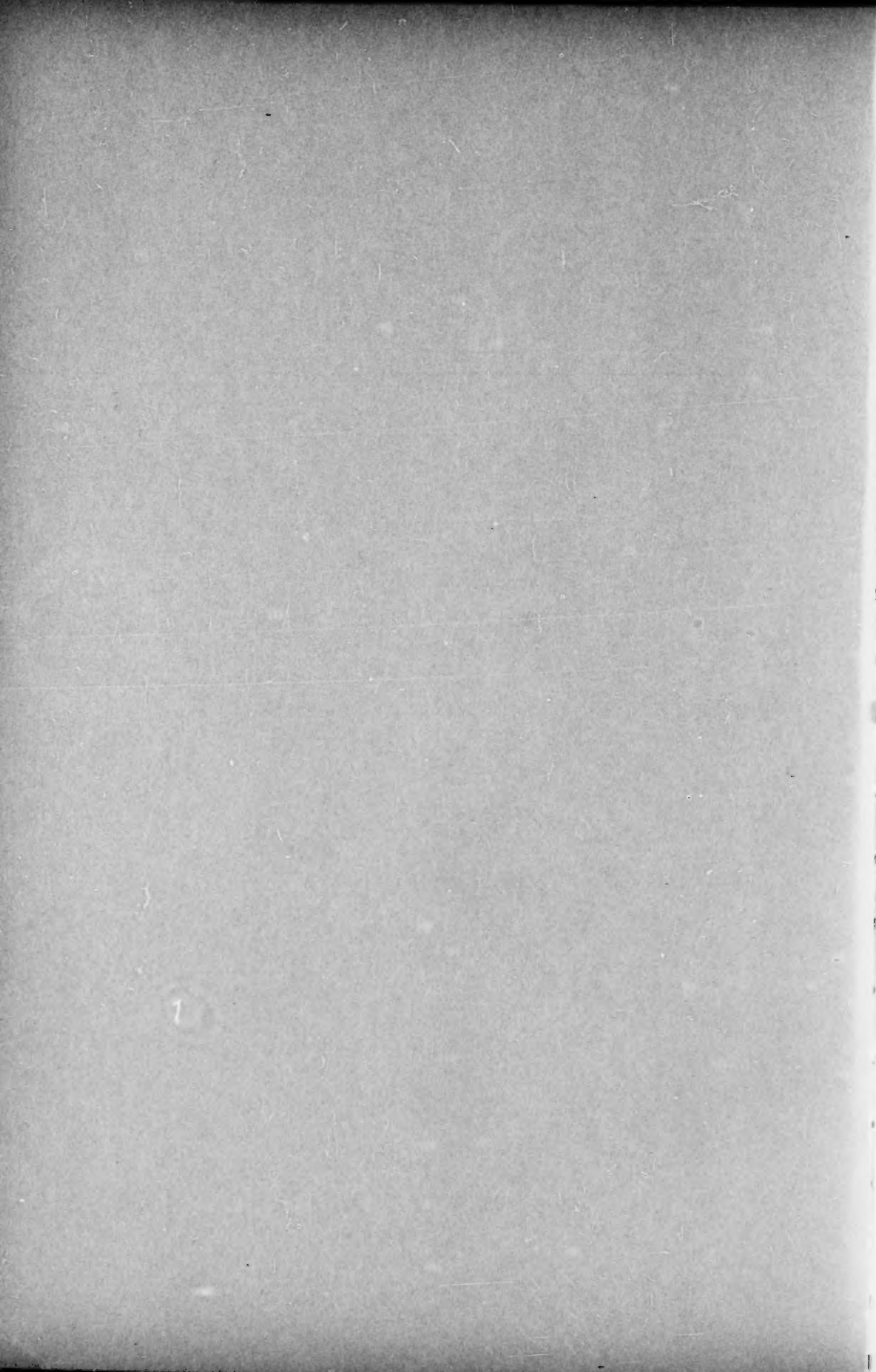
**RESPONDENTS' BRIEF IN OPPOSITION**

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## QUESTIONS PRESENTED

1. Does the First Amendment dictate the details of the content of state law applicable to church property disputes, or does it simply establish certain constitutional boundaries and otherwise leave the choice of applicable law to the States?

2. Should this Court overrule or reconsider *Jones v. Wolf*, 443 U.S. 595 (1979), and its predecessor decisions?

3. Does the decision of the California Court of Appeal rest on independent state-law grounds, aside from any assertedly improper deference to ecclesiastical authorities on ecclesiastical issues?

## LIST OF PARTIES<sup>1</sup>

Petitioners' statement that the parties below are those represented in the caption is incorrect in two respects.

First, the petition purports to identify Petitioners as the Korean United Presbyterian Church of Los Angeles ("KUPC"), which is a California nonprofit religious corporation. In fact, however, the persons bringing this petition are one of two rival factions claiming to be KUPC. The court below held, based on uncontested facts and state law, that Petitioners are not in truth the true KUPC; that entity is actually represented by the rival faction loyal to Respondents, judicatures in the national denomination known as Presbyterian Church (U.S.A.). The court below also held that KUPC had never authorized this litigation. App. to Pet. for Cert. at 92-97. The precise identity and juridical status, if any, of Petitioners is not stated. Petitioners' characterization thus assumes the conclusion (at best) that it is the true representative of KUPC or flatly misstates (at worst) the true identity of the parties.

Second, the petition does not reflect that Sang Bom Woo, the leader of Petitioners' faction, was a cross-defendant below. Since Rev. Woo has not timely petitioned for certiorari, the judgment below remains binding on him.

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<sup>1</sup>Pursuant to Supreme Court Rule 29.1, there are no parent or subsidiary companies required to be listed for any of the Respondent nonprofit corporations.

## TABLE OF CONTENTS

	<u>Page</u>
QUESTIONS PRESENTED.....	i
LIST OF PARTIES .....	ii
STATUTES INVOLVED .....	2
STATEMENT OF THE CASE.....	2
REASONS WHY THE WRIT SHOULD BE DENIED.....	5

## I.

Petitioners' Request For "Guidance" From This Court As To The Content Of "Neutral Principles" Is Merely A Thinly Veiled Disagreement With The Content And Outcome Of California State Law In This Case.....	6
---	---

## II.

Petitioners' Assertion That The Court Of Appeal Should Have Second-Guessed The Presbytery On A Matter Of Ecclesiastical Law Is Neither Merito- rious Nor A Sound Basis For Granting Certiorari	10
A. The judgment below rests on three indepen- dent grounds.....	10
B. The Court of Appeal's refusal to second-guess the Presbytery's ecclesiastical decision is not only permitted but required by this Court's decisions .....	11

## TABLE OF CONTENTS

	<u>Page</u>
C. The judgment is independently supported by the Court of Appeal's determination on neutral principles that Petitioners did not validly take control of the nonprofit corporation KUPC...	14
D. The judgment below is further independently supported by PCUSA's use of an express trust provision as invited by this Court in Jones ..	16
CONCLUSION .....	18

## TABLE OF AUTHORITIES

## Cases

	<u>Page</u>
<i>Horsman v. Allen</i> , 129 Cal. 131, 61 P. 796 (1900)	13
<i>Jones v. Wolf</i> , 443 U.S. 595 (1979) .....	
..... i, 6, 8, 9, 11, 13, 15, 16	
<i>Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church</i> , 344 U.S. 94 (1952) .....	6, 12
<i>Kreshik v. Saint Nicholas Cathedral of Russian Orthodox Church</i> , 363 U.S. 190 (1960) .....	6, 12
<i>Maryland &amp; Va. Churches v. Sharpsburg Church</i> , 396 U.S. 367 (1970) .....	8
<i>Maryland &amp; Virginia Eldership of Churches of God v. Church of God, Inc.</i> , 396 U.S. 367 (1970) .....	6, 8, 12, 15
<i>Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church</i> , 393 U.S. 440 (1969) .....	6, 12
<i>Presbytery of Riverside v. Community Church</i> , 89 Cal. App. 3d 910, 152 Cal. Rptr. 854 (1979) ...	13
<i>Protestant Episcopal Church v. Barker</i> , 115 Cal. App. 3d 599, 171 Cal. Rptr. 541 (1981) ...	13
<i>Serbian Eastern Orthodox Diocese v. Milivojevich</i> , 426 U.S. 696 (1976) .....	6, 12, 14
<i>Watson v. Jones</i> , 80 U.S. (13 Wall.) 679 (1872) ..	6
<i>Wheelock v. First Presbyterian Church</i> , 119 Cal. 477, 51 P. 841 (1897) .....	13

## Statutes

California Corporations Code § 9142(c) (2) .....	2, 17
California Corporations Code §§ 9110 <i>et seq.</i> .....	2





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**RESPONDENTS' BRIEF IN OPPOSITION**

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Respondents Presbytery of the Pacific, Synod of Southern California and Hawaii, and Presbyterian Church (U.S.A.) ("PCUSA") respectfully urge this Court to deny the petition for writ of certiorari in this case.

## STATUTES INVOLVED

In addition to the constitutional provisions stated in the petition, several California statutes are involved in this case. The California Nonprofit Religious Corporation Law is found at Cal. Corp. Code §§ 9110 *et seq.* In particular, § 9142(c)(2) of that Law provides:

(c) No assets of a religious corporation are or shall be deemed to be impressed with a trust, express or implied, statutory or at common law unless one of the following applies:

. . . .

(2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a superior religious body or the general church of which the corporation is a member, so expressly provide.

## STATEMENT OF THE CASE

Petitioners' Statement of the Case is incomplete, argumentative, and inaccurate in several respects. For a complete statement, the Court is respectfully referred to the decision below, App. to Pet. for Cert. at 64-80. In particular, however, the following clarifications are in order.

1. As discussed in the "LIST OF PARTIES" section *supra*, Petitioners have misidentified themselves as KUPC. The California Court of Appeal held on the facts and state law that Petitioners are *not* the lawful representatives of KUPC. App. to Pet. for Cert. at 92-97. This is a disputed issue at best, and a foreclosed contention at worst. At this stage of the proceedings it is unclear just who Petitioners really are, or whether there even is a proper party petitioner before this Court. The only cer-

tainty about the identity of Petitioners is that they do not include Rev. Woo, who was a named party below but who has chosen not to join the petition.

2. Although Petitioner's Statement discusses in detail the holdings of the Los Angeles County Superior Court, it is extremely scanty in its account of the holdings of the judgment actually sought to be reviewed here — that of the California Court of Appeal. The California Court of Appeal concluded that the right to possession of the disputed property lies in the loyal faction of KUPC, not in the breakaway faction represented by Petitioners. It rested its judgment on three independent legal grounds:

(1) The court held that the identification of the faction of the local congregation representing the true KUPC is, under California law, an ecclesiastical question on which the courts must defer to the decision of the highest ecclesiastical authority — in this case, the Presbytery. App. to Pet. for Cert. at 86-92.

(2) The Court also held that based upon its review, according to neutral principles of law, of the relevant corporate documents and state statutes, lawful control of the KUPC nonprofit corporation is vested in the faction designated by the Presbytery and loyal to the PCUSA, and not in Petitioners. *Id.* at 92-97.

(3) Finally, the court held that under state statute it was required to give effect to an express trust provision in the PCUSA constitution — a conclusion further buttressed by the relevant provisions of KUPC's own corporate documents and by the title documents and the intent of the parties. *Id.* at 97-107.

3. Petitioners' Statement contends that "the court below" found that the clear intent of the parties was that the beneficial interest in the property was to be held by KUPC. Pet. for Cert. at 5. The Court of Appeal, however, rejected this proposition as to at least a part of the property, finding instead that the clear intent of the parties was that PCUSA would hold the beneficial interest in the property (even prior to and aside from the express trust provision mentioned, but not quoted, in footnote 1 of the petition). App. to Pet. for Cert. at 103-04.

4. Petitioner's Statement asserts as fact that nothing in KUPC's by-laws indicates an intent that assets revert to PCUSA upon revocation of the charter. Pet. for Cert. at 7. In fact, however, the Court of Appeal held that the by-laws do so provide, because they incorporate the Book of Order (the PCUSA's constitution) which contains the provision in question, and because representatives of KUPC had accepted those provisions. App. to Pet. for Cert. at 104-07.

5. Petitioner's Statement asserts as fact that a majority of the members of KUPC voted to disaffiliate with PCUSA. Pet. for Cert. at 7-8. Again, this is a rejected contention at best. The court below held that, by the time any vote to disaffiliate was taken, these Petitioners were no longer even members of KUPC, and, in any event, that such a disaffiliation is beyond the legal capacity of the membership or session of a local congregation. App. to Pet. for Cert. at 95-97.

6. Petitioner's Statement asserts that KUPC voted to exempt itself from certain provisions of the Book of Order. Pet. for Cert. at 8. As discussed in the preceding paragraph, however, the "vote" referred to was not a

legally valid vote of any members or representatives of KUPC.

## REASONS WHY THE WRIT SHOULD BE DENIED

The petition in this case is quite vague and disjointed in attempting to identify what is supposed to be wrong with the decision of the Court of Appeal, and what supposed issues exist that require this Court's attention. As the petition tacitly acknowledges, there is a well-developed and clear body of decisions by this Court on the constitutional principles applicable to church property disputes. Petitioners assert generally that these cases do not provide sufficient "guidance" to state courts. What Petitioners identify as a "lack of guidance", however, is in truth simply the broad latitude accorded to the different States to establish their laws of property ownership as they see fit, subject only to specific First Amendment prohibitions on forbidden topics for adjudication. Petitioners' complaints about the supposed lack of clarity in this field are really nothing more than a mask for their unhappiness with the particular state-law rules that California has adopted and applied in this case. Disagreements with a state court on state law do not establish a proper basis for invoking this Court's certiorari jurisdiction.

Beyond a vague call for "guidance", the only particular constitutional argument sought to be raised by Petitioners is an assertion that the Court of Appeal impermissibly deferred to the decision of the highest judicatory body of the PCUSA as to the identity of its local affiliate church. This assertion fails, however, for two independent reasons. First, the deference accorded by the Court of Appeal in this case was not merely permitted, but affirmatively *required*, by this Court's decisions. And second, the challenged "deference" was but one of three independent,

alternative holdings supporting the judgment below. The other two bases for the judgment did not involve any such element of deference to ecclesiastical decisions; and they were themselves dictated by this Court's holdings. Hence, even if Petitioners' attack on the Court of Appeal's deference to ecclesiastical decisions were otherwise meritorious, it would have no effect on the validity of the judgment sought to be reviewed here.

**I. Petitioners' Request For "Guidance" From This Court As To The Content Of "Neutral Principles" Is Merely A Thinly Veiled Disagreement With The Content And Outcome Of California State Law In This Case.**

As Petitioners tacitly acknowledge, this Court has handed down a well-established body of case law that thoroughly and clearly lays out the constitutional boundaries that state courts must not cross when they adjudicate church property disputes. *Jones v. Wolf*, 443 U.S. 595 (1979); *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976); *Maryland & Virginia Eldership of Churches of God v. Church of God, Inc.*, 396 U.S. 367 (1970); *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969); *Kreshik v. Saint Nicholas Cathedral of Russian Orthodox Church*, 363 U.S. 190 (1960); *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church*, 344 U.S. 94 (1952); *Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872).

The petition does not claim to identify any error in any of these decisions. It does not assert any conflict among

them. It does not establish that lower courts have had any particular difficulty understanding or applying them.<sup>2</sup>

Nevertheless, Petitioners assert that the state courts are in need of detailed “guidance” from this Court as to the content of the “neutral principles of law” that they are permitted to use in determining church property disputes. However, there is an excellent reason why no such detailed guidance is found in this Court’s opinions, — that is, this Court is firmly committed to the idea that such “neutral principles” are a matter of state law, left to the choice of each State. This Court has soundly rejected any such effort to dictate the details, or even the broad outlines, of state law on this topic. Instead, it has wisely been content to set forth the outer boundaries placed by the First Amendment on state law — and to leave each State to establish such law as it thinks best, by statute or judicial decision. So long as the legal precepts adopted by a State do not contravene specific constitutional prohibitions — for example, so long as they do not require or permit state courts to second-guess ecclesiastical authorities as to questions of religious doctrine or church polity — then the First Amendment, and this Court, have nothing further to say about them:

[A] State may adopt *any* one of various approaches for settling church property disputes so long as it

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<sup>2</sup>Petitioners cite four scattered state-court cases as supposed evidence that the application of “neutral principles of law” does not necessarily lead to consistent results. Pet. for Cert. at 13. However, Petitioners fail to point out that each of these cases was decided by a different state court, based on different state statutes and on different underlying facts. The consistency or inconsistency of the results of these cases is merely a reflection of the diversity of state laws and of factual situations that may be encountered. Petitioners do not assert any inconsistency in the *constitutional* analysis used by these courts.



involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith.

*Jones*, 443 U.S. at 602, quoting *Maryland & Va. Eldership*, 396 U.S. at 368 (1970) (Brennan, J., concurring) (emphasis in original).

For example, *Jones* itself involved an assertion that Georgia was constitutionally required to defer to the decision of a national church authority concerning which of two factions of a local church was the proper owner of the local church's property. The Court held that, although Georgia would certainly have been *permitted* to decide the dispute on the basis of such deference, it was not constitutionally *required* to do so. It could instead invoke "neutral principles of law" such as the law of title and implied or express trust. These neutral principles may be applied to determine the civil ownership consequences of both purely secular documents (such as deeds) and church governance documents (such as church constitutions). 443 U.S. at 602-04. The Court left it up to the Georgia courts on remand to flesh out the details of the "neutral principles" to be applied. *Id.* at 606-10. The Court did note, however, that where state law (or a church document to which state law looks) rests a determination of property rights on religious concepts, such as which local faction represents the "true church," then the courts are constitutionally required to defer completely to the decision of the authoritative ecclesiastical body. *Id.* at 604, 609.

In light of these principles from *Jones*, Petitioners' complaint of lack of "guidance" must be taken in either of two ways. Most boldly, it might be read as an attempt to federalize the entire body of law applicable to church property disputes — that is, to overrule *Maryland & Va.*



*Eldership* and *Jones*. Petitioners, however, do not avow any such brash enterprise. Nor do they assert any reason why the Court should now consider erecting onto the First Amendment a detailed superstructure of federal constitutional law of property, trusts, deeds, and governance of nonprofit corporations or associations.

Less dramatically, but more credibly, Petitioners' arguments can be interpreted as an attempt to wrap the First Amendment around their disagreements with California law, as applied by the California Court of Appeal in this case. In this regard, Petitioners argue that (1) the court below improperly gave precedence to the PCUSA's Book of Order over the alleged by-laws and articles of the local congregation in determining whether a trust existed (Pet. for Cert. at 7); (2) that the court misconstrued KUPC's by-laws and articles as incorporating pertinent provisions of the Book of Order (*Id.* at 7 & n.2, 15); (3) that certain provisions of the Book of Order permitted the local congregation to opt out of the trust provisions in the Book of Order (*id.* at 7-8); (4) that the court should have given controlling effect to the alleged majority vote of the congregation (*Id.* at 7); (5) that the court failed to resolve the relationship between a governing state statute and common-law rules (*Id.* at 11 & n.3); and (6) that the court looked to the wrong source to determine principles of corporate governance (*Id.* at 14-15). Plainly, these are all questions of California law, based on the particular facts as found in this case. Petitioners may disagree with the Court of Appeal's resolution of these state-law questions; but until *Jones* and its predecessors are overruled, this Court has no basis on which to redetermine them. 443 U.S. at 609.

## II. Petitioners' Assertion That The Court Of Appeal Should Have Second-Guessed The Presbytery On A Matter Of Ecclesiastical Law Is Neither Meritorious Nor A Sound Basis For Granting Certiorari.

Aside from their state-law contentions, the closest Petitioners come to asserting any actual constitutional issue in this case is their general, vaguely developed argument that the Court of Appeal erred by refusing to re-examine or overrule the decision of the Presbytery as to which faction of the local congregation constitutes the true KUPC. This Court's settled decisions prove the incorrectness of this argument. Further, Petitioners' criticism could at most affect one of the lower court's three alternative grounds for its judgment.

### A. The judgment below rests on three independent grounds.

Notably missing from the petition is any serious discussion of what the Court of Appeal actually held in this case. It rested its judgment on three independent legal grounds:

(1) The court held that the identification of which competing faction of the local congregation represents the true KUPC is, under California law, an ecclesiastical question on which the courts must defer to the decision of the highest ecclesiastical authority — in this case, the Presbytery. App. to Pet. for Cert. at 86-92.

(2) The Court also held that based upon its review, according to neutral principles of law, of the relevant corporate documents and state statutes, lawful control of the KUPC nonprofit corporation is vested in the faction designated by the Presbytery and loyal to the PCUSA, and not in Petitioners. *Id.* at 92-97.

(3) Finally, the court held that under state statute it was required to give effect to an express trust provision in the PCUSA constitution — a conclusion further buttressed by the relevant provisions of KUPC's own corporate documents and by the title documents and the intent of the parties. *Id.* at 97-107.

**B. The Court of Appeal's refusal to second-guess the Presbytery's ecclesiastical decision is not only permitted but required by this Court's decisions.**

This Court's decision in *Jones* could have been written with this case in mind, so clearly does it dictate the outcome here.<sup>3</sup> *Jones*, like this case, involved a decision with respect to which of two competing factions of a local Presbyterian congregation was entitled to ownership of the congregation's physical assets. The Court held that state law may constitutionally look to "neutral principles" to decide the controversy. Importantly, however, the Court expressly warned that a State may not use such neutral principles in a way that involves second-guessing the decision of an ecclesiastical authority on ecclesiastical matters:

[T]here may be cases where the deed, the corporate charter, or the constitution of the general church incorporates religious concepts in the provisions relating to the ownership of property. If in such a case the interpretation of the instruments of ownership would require the civil court to resolve a religious controversy, then the court must defer to the resolu-

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<sup>3</sup>Interestingly, the approach advocated by the dissent in *Jones* would have led just as compellingly to the judgment reached in this case. The four *Jones* dissenters would have required deference to the Presbytery's decision in all circumstances, without reference to "neutral principles". 443 U.S. at 610-21 (Powell, J., dissenting).

tion of the doctrinal issue by the authoritative ecclesiastical body.

443 U.S. at 604: Accordingly, in remanding the case for a determination of state law, the Court reiterated its warning:

[Georgia law] may suggest that the identity of the "Vineville Presbyterian Church" named in the deeds must be determined according to the terms of the Book of Church Order, which sets out the laws and regulations of churches affiliated with the PCUS. Such a determination, however, would appear to require a civil court to pass on questions of religious doctrine, and to usurp the function of the commission appointed by the Presbytery, which already had determined that petitioners represent the "true congregation" of the Vineville church. Therefore, if Georgia law provides that the identity of the Vineville church is to be determined according to the "laws and regulations" of the PCUS, then the First Amendment requires that the Georgia courts give deference to the presbyterial commission's determination of that church's identity.

*Id.* at 609 (footnotes omitted).

This was hardly a novel holding. The Court's decisions have consistently and emphatically rejected any attempt by the States, acting either judicially or legislatively, to seek to intervene in ecclesiastical decisions about which of two factions or contenders represents the rightful continuation of a religious institution. *Serbian Eastern Orthodox Diocese*, 426 U.S. at 708-715; *Maryland & Va. Eldership*, 396 U.S. at 369-70 (Brennan, J., concurring); *Presbyterian Church*, 393 U.S. at 449-52; *Kreshik*, 363 U.S. at 191; *Kedroff*, 344 U.S. at 119.

Since California, like Georgia, has adopted a "neutral principles" approach to church property disputes<sup>4</sup>, this Court's holding in *Jones* is squarely on point here and clearly dictates the correctness of the California Court of Appeal's decision below. Even according to Petitioners' own theory, the property at issue is equitably owned by KUPC, the nonprofit corporation embodying the local congregation prior to the schism.<sup>5</sup> Thus, *on Petitioners' own theory*, they could claim the property only if they represent the "true church", KUPC.

Under settled California state law, the court below noted, issues of identifying the "true church" are deemed ecclesiastical questions.<sup>6</sup> As such, they cannot be re-evaluated by the civil courts. Under this Court's decisions in *Jones* and its predecessors, therefore, the Court of Appeal was not only permitted, but constitutionally *required*, to give absolute effect to the determination of the Presbytery that the loyal faction, rather than Petitioners, is the KUPC entitled to own and occupy the property.<sup>7</sup>

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<sup>4</sup>App. to Pet. for Cert. at 85; *Protestant Episcopal Church v. Barker*, 115 Cal. App. 3d 599, 615, 171 Cal. Rptr. 541, 549 (1981); *Presbytery of Riverside v. Community Church*, 89 Cal. App. 3d 910, 152 Cal. Rptr. 854 (1979).

<sup>5</sup>In fact, however, the court below concluded under state law that the actual beneficial owner of at least part of the property was PCUSA. See App. to Pet. for Cert. at 97-107; Part II-D *infra*.

<sup>6</sup>App. to Pet. for Cert. at 88-89, citing *Presbytery of Riverside*, 89 Cal. App. 3d at 922, 152 Cal. Rptr. at 860; *Horsman v. Allen*, 129 Cal. 131, 61 P. 796 (1900); and *Wheelock v. First Presbyterian Church*, 119 Cal. 477, 51 P. 841 (1897).

<sup>7</sup>It is uncontested that the Presbytery is the proper constitutional body to make this determination. See App. to Pet. for Cert. at 71-72, quoting ¶ G-8.0600 of the Book of Order.

**C. The judgment is independently supported by the Court of Appeal's determination on neutral principles that Petitioners did not validly take control of the nonprofit corporation KUPC.**

Despite *Jones*, Petitioners contend that the court below erred in not making its own determination as to which faction truly represents KUPC. The court below correctly rejected this contention. Beyond that, however, the court also indulged Petitioners' premise *arguendo*, and went on to hold that even if it could make such a determination for itself, Petitioners would still not prevail. Under clear California law, Petitioners no longer control or represent the entity (KUPC) in whose name they purport to claim the property. Thus, even if the propriety of deference to the Presbytery were still an open question, the outcome of this case would be the same either way, based on state law. Hence, this case is not a suitable candidate for certiorari.

This holding of the court below is found at App. to Pet. for Cert. at 92-97. Briefly, the court started from Petitioners' premise that the property belongs to the nonprofit corporation, KUPC; and then, to paraphrase the Chief Justice's phrase, it asked "if the real [KUPC] would please stand up". *Serbian Eastern Orthodox Diocese*, 426 U.S. at 726 (Rehnquist, J., dissenting). Pursuant to California law, the court examined the corporate governing documents of both KUPC and PCUSA to determine what mechanisms are involved in the control and governance of KUPC as a local congregation of PCUSA. It held that there had never been a valid meeting of KUPC's membership or its session (its governing body) at which Petitioners' faction had taken control of KUPC, changed its by-laws, withdrawn from the Presbytery, or otherwise acted to cut its ties with PCUSA. Although

Petitioners claimed to have held such a meeting in March 1989, that action was held to be a legal nullity as far as it purported to affect the control or governance of KUPC. First, Petitioners themselves had previously voluntarily withdrawn from KUPC, so that they no longer had any right to a say in its affairs. Second, pursuant to valid corporate powers and state law, in November 1988 the Presbytery had removed Petitioners' faction from KUPC office and appointed an administrative commission as successor. And third, the Book of Order (which was incorporated into KUPC's own by-laws) provided that only the Presbytery, not the KUPC session or membership, had the legal authority to dissolve the tie between PCUSA and KUPC.

Petitioners complain that this analysis impermissibly looked to "religious" documents such as the governance documents of KUPC and PCUSA — although they do not identify to what other sources the court could have looked instead. In any event, this Court's decisions uniformly approve reliance on church constitutions and other documents of governance, provided only that the courts "scrutinize the document in purely secular terms" and defer to religious authorities for the determination of any issue of religious doctrine or church polity. *Jones*, 443 U.S. at 604; *Maryland & Va. Eldership*, 396 U.S. at 367-68.

Petitioners do not suggest any manner in which the court below violated these settled precepts. This portion of the Court of Appeal's decision is scrupulously careful in its reading of the pertinent documents "in purely secular terms"; indeed, it reads very much as if this were a garden-variety corporate control case for a non-religious non-profit entity, or even an ordinary for-profit business. There is no hint of deference, improper or otherwise, to the decisions of ecclesiastical authorities. The court (on



an *arguendo* basis) has simply taken Petitioners at their word that it ought to decide the corporate control issue for itself, based on California law and a secular reading of neutral sources — and having done as Petitioners demanded, it has still ruled against them on the merits. So where is the constitutional issue?

**D. The judgment below is further independently supported by PCUSA's use of an express trust provision as invited by this Court in *Jones*.**

In *Jones*, this Court went out of its way to give clear guidance to hierarchical churches as to how they could secure the right of the national denomination to control the use and disposition of local congregation property:

Through appropriate reversionary clauses and trust provisions, religious societies can specify what is to happen to church property in the event of a particular contingency, or what religious body will determine the ownership in the event of a schism or doctrinal controversy. In this manner, a religious organization can ensure that a dispute over the ownership of church property will be resolved in accord with the desires of the members.

....

... At any time before the dispute erupts, the parties can ensure, if they so desire, that the faction loyal to the hierarchical church will retain the church property. They can modify the deeds or the corporate charter to include a right of reversion or trust in favor of the general church. Alternatively, the constitution of the general church can be made to recite an express trust in favor of the denominational church.



In this case, both the State of California and PCUSA have taken the Court's invitation. PCUSA's Book of Order provides in unmistakable terms that

All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, . . . is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.).

App. to Pet. for Cert. at 71, quoting ¶ G-8.0200 of the Book of Order. The California Court of Appeal held that, under California law, this provision was validly incorporated into the by-laws of KUPC itself. The court concluded that it was bound to give effect to this express trust language by California statute, Cal. Corp. Code § 9142(c) (2):

(c) No assets of a religious corporation are or shall be deemed to be impressed with a trust, express or implied, statutory or at common law unless one of the following applies:

. . . .

(2) Unless, and only to the extent that, the articles or bylaws of the corporation, or the governing instruments of a superior religious body or the general church of which the corporation is a member, so expressly provide.

All other issues aside, this holding alone is more than sufficient to support the judgment below on purely state law grounds. Indeed, Petitioners do not assail the constitutionality of § 9142(c) (2). Their criticisms of its application here, besides being vague and unpersuasive, are simply disagreements with the Court of Appeals as to

matters of state law. Petitioners present no hint of a federal constitutional question that could affect this basis for the judgment below.

### CONCLUSION

Petitioners contend that the state courts require more "guidance" from this Court as to the content of the "neutral principles" that they may apply in adjudicating church property disputes. What Petitioners really mean, Respondents respectfully submit, is that Petitioners do not like the particular neutral principles adopted by the State of California, nor the result that those principles have yielded in this case. Petitioners identify no defect in the current state of First Amendment law on this topic, nor do they make any substantial showing that that law was not complied with in this case. There is no issue presented here that comes close to calling for certiorari.

Dated: December 27, 1991

Respectfully submitted,

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